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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,982	03/28/2005	Michele Bernini	P-2552	7191
2120 7590 08/12/2010 PAUL A. FATTIBENE FATTIBENE & FATTIBENE 2480 POST ROAD SOUTHPORT, CT 06890				
EXAMINER WILSON, LEE D				
ART UNIT		PAPER NUMBER		
3727				
MAIL DATE		DELIVERY MODE		
08/12/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/511,982

Applicant(s)

BERNINI ET AL.

Examiner

LEE D. WILSON

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 43-48 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 46-48 is/are allowed.
- 6) ☒ Claim(s) 43-45 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/CD)
Paper No(s)/Mail Date ____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 43-45 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for [0075] Obviously, the deformable main body 2 of the present embodiment can also be filled with a dispersible substance, such as a flavoring substance or a toothpaste or therapeutic substance with said substance being released, during use, through small passages provided into said main body. Alternatively, the deformable main body 2 can be impregnated with said dispersible substance.

- a. Claim 43 has been reworded but the term Impregnated seems to imply something out side of the device is supply some additional elements. The term by definition requires something or some matter be added to a surface being impregnated.
- b. does not reasonably provide enablement for a dispersible substance impregnated within said inner main body. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make main body impregnated with said dispersilbe the invention commensurate in scope with these claims. The small passages in the main body are the only way the body can be impregnated with said dispersible material;

However, there is no disclosure body or material holding a dispersible material outside of having a pocket.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 43-45 are rejected under 35 U.S.C. 102(b) as being anticipated by Drulias et al (5392482).

Drulias et al discloses outer body (12), an inner main body (34) which dispersible impregnated, bristle (26 & 22 nylon), a through hole .

43. (Previously Presented) A tooth-cleaning device

comprising:

an inner main body (12);

engaging means, formed within said inner main body, for

engaging a human tongue;

a dispersible substance impregnated (34) within said inner main body; and

bristles (26) covering an outer surface of said inner main body,

whereby when placed by a user in the mouth, the bristles

come into contact with the teeth and the gums so as to remove food particles and said dispersible substance is released from said inner main body.

44. (New) A tooth-cleaning device as in claim 1 wherein:

said engaging means comprises a through hole (12).

45. (New) A tooth-cleaning device as in claim 1 wherein:

said engaging means comprises an inner cavity.

Allowable Subject Matter

4. Claims 46-48 are allowed.

5. The following is a statement of reasons for the indication of allowable subject matter:

- c. Suggestion 1. through small passages provided into said main body with a deformable main body 2 being impregnated with said dispersible substance with in said passages wherein the structure of passages in the body in combination with the bristles doughnut shape with a through hole for the tongue
- d. Suggest 2 just add this language to the independent claims 43, 46, and 49. Add this clause wherein said main body has small through passages extending from an inside

cavity with with said impregnated dispersible substance
which is pressure released into the bristles.

Response to Arguments

6. Applicant's arguments filed 7/21/2010 have been fully considered but they are not persuasive.

e. Claims 43-45 have drawn the same 112 first paragraph issues. The claims were amended and it was further explained how that amendment had the same problem but for slightly different reasons now. Claim 43 has been reworded but the term Impregnated seems to imply something out side of the device is supply some additional elements. The term by definition requires something or some matter be added to a surface being impregnated. Now the problem exist because of the aforementioned reasons.

f. New rejections have been recited in regard to both art and 112 first rejections.

g. The rejection still stands for the rejected claims and others have been allowed.

Conclusion

7. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE D. WILSON whose telephone number is 571-272-4499. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MONICA CARTER can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ldw

/LEE D WILSON/
Primary Examiner, Art Unit 3727

August 11, 2010